App. F IX-1

1930 (Muzrai)

File No. 18
Serial Nos. 6

Previous References
Mem 128-30 1-5

Later References

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 2.

Part B for September 32

SUBJECT.

Placing in abeyance G.O of 30th May 1930. re presumptive proceedings of Bakshi Narasaiah (Mokhtiar) Case

To Rev Mem Comm
487 & 20 & 32

Communicated to Govt

1220 p 32

M C. 13]

No. 525/30-37 Encl 3.

OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE.

Dated, Bangalore, 19th August *193* 2
23.

FROM

S. P. Rajagopalachari Esq., B.A., B.L.,
Muzrai Commissioner in Mysore.

Muz: 188-30-6

To

FINANCIAL SECRETARY
23 AUG

24 AUG 1932
243
MUZRAI.

S. Shamanna, Esquire., B.A.,
Secretary to the Government of His Highness
the Maharaja of Mysore.
Financial *Department.*

2418

SIR,

+ 2

Referring to G.O.No.2123-25/Muz.188-30-5 dated 28th March 1932 re O.S.No.13 of 1930 on the file of the District Judges Co Mysore,(Mr.N. Krishnasami Rao VS. District Muzrai Officer, Mysore and others), I have the honor to forward herewith copy of letter

P - X

8/A.C. dated 13th August 1932 together with copies of its enclosu received from the Deputy Commissioner, Mysore District, stating t in view of the interlocutary order passed by the District Judge -- restraining the defendant from interfering in any manner with the Plaintiff's possession of the suit property, he has cancelled the -- sale of the lease of the lands endowed to Baksh Narasappa's charities at Mysore and to request you to kindly consult the Law Department -- whether the order passed by the District Judge on 5th August 1932 may not be taken in appeal and security demanded from the Plaintiff for properly accounting for the yield of the lands during the pendency of the original suit, in case the lands cannot be resumed under Government Order No.2749-50/Muz.3-26-12 dated 29/30th May 1930.

I have the honor to be,
Sir,
Your most obedient servant,

Assistant Commissioner
for Muzrai Commissioner.
(Absent from Station)

28/8/32

Please put up the concerned law file

Serial No.

The injunction order granted by the D.C. in this case has been considered in the law & hereinafter quoted. The P.P. has been in that ~~the P.P.~~ further exec^n of the G.O of 30th May 1930 has to be stayed in obedience to the prohibitory order and that no action in the matter is at present called for -

As observed by the District Judge in his order of 5-8-32, the suit is prima facie maintainable under Sec 21 of Regulation VII of 1927. This is the plaintiff's case ~~as~~ and one of the chief points that arise for decision in the case will be as to the maintainability of the suit, ~~the~~ which in its turn involves a consideration of the validity of the G.O. of 30th May 1930. It is therefore but fair that pending final decision, the Court should order status quo being maintained as regards possession of the property in dispute. In this view, it is not advisable to challenge the Dist: Judge's order of 5/8/32 in appeal -

7. The suit ~~itself~~ is likely to be disposed of by end of the year and there is no harm in putting off resumption proceedings by a few months more, till the case is decided.

(Sd)

The above opinion will if approved

NOTE—Contn. Sheet.

WD 70—GBPM—60 000—13-8-31

File No. 188 of 193 0.

General and Revenue Secretariat

12 SEP. 32
GENL. & REV. SEC

be Communicated to the Govt
Recd
7/9/32
Govt Secy)

5/9/32
9) Yes
5.9.32
5/9

10 Ofc noted
9.9 5/9
11) 12/9/32

No 487 of 20-9-1932 to the Muzaffarnagar Commissioner communicating the legal opinion that there is no harm in putting off resumption proceedings by a few months more till the case is decided in Supreme Court

Govt Secy to kindly retain the linked file pertaining in Court & Supreme & returning the same file

9.9 21/9

Govt
21/9

MTSW
21/9

Linked file is retained.
Muzaffarnagar with Compts.)

TSD
21/9

Letter No.H.8/A.C. dated 13th August 1932 from the Deputy omm Mysore District to the Muzrai Commissioner in Mysore.

O.S.No.13 of 1930-31 (Mr.N.Krishnaswamy Rao VS District Muzrai Offi Mysore, and other,) on the file of District Judge, Mysore.

In continuatinn of my letter No.H.8/A.C. dated 19th March 1931 int ting the receipt of summons in the above suit and with reference to letter No.P.6160/Law.69-30-6 dated 30th March 1931 from the Secretary to Governm Law Department, in the matter of the execution of Government order dated 30th May 1930 directing the resumption of the lands endowed to Bhakshi Narasappa's charities, Mysore, I have the honor to forward herewith a of letter dated 6th August 1932 addressed to the General Secretary to Go ment by the Public Prosecutor, Mysore, together with a copy of an order temporary injunction passed by the District Judge Mysore Division, until disposal of the suit.

2. As per Government order of 30th May 1930, the Amildar of Yedatore has sold the lease of the endowed lands for a period of 5 years commenci from 1932-33 at an annual rental of 101 candies of paddy, and the Sub -- Division Officer, Mysore, has submitted the sale records for confirmatio the sale. In view of the interlocutary order passed by the District Ju

Judge, I have cancelled the sale of the lease and returned the records to the Sub Division Officer.

3. Further progress of the suit will be intimated in due course.

"C o p y"

For Muzrai Commissioner.

Letter No.104 dated 6th August 193 , from [illegible] -
Mysore Division, Mysore, to the General Secretary to the Government o
Mysore, Law Section, Bangalore.

Subject:-O.S.No.13 of 30-31 (Mr.N.Krishnaswami Rao VS.District --
Muzrai Officer, Mysore District) on the file of the District Judge,Mysore

Reference:- Letter No.P.620 Law dated 29th July 1931 from the Chief Secre
tary to Government to the Deputy Commissioner, Mysore District.

I have the honor to report that the plaintiff in the above noted - suit filed an application before the District Muzrai Officer on 28th July 1932 praying for an order for staying execution of G.O.No.2749-50/Muz.3-26 12 dated 30th May 1930 for cancellation of which the above noted suit has been filed under Section 21 of the R.C.Regulation. The District Muzrai Officer rejected the application and granted an endorsement to the plair Copy of the endorsement is enclosed herein.

On 2-8-1932 the said plaintiff filed an urgent application before the District Judge, Mysore, for similar relief. Copy of the applicati served on me is submitted herewith for reference. As the plaintiffs advocate prayed for immediate disposal of the application there was no for me to solicit written instructions for opposing the application. 4th August 1932, I orally opposed the application urging that the -----

the maintainability of the suit itself is an issue and that the plainti was not entitled to get a stay order on the grounds urged by him. The court was inclined to the ~~xxxxx~~ opinion that the plaint in the suit -- purports to have been filed under Section 21 of the R.C.Regulation; -- consequently, under Sec.21 (2) the right to execute the Government orde not arise till the dismissal of the suit. Copy of the order is submi for the information of Government.

I request that further instructions, if any, may kindly be co ted to this office. The suit is for hearing on 26th August 1932.

"C o p y"

For Kuzrai Commissioner.

In the court of the District Judge, Mysore.
O.S.No.13 of 1930-31.

Mr. N.Krishnaswami Rao. V.S. The District Muzrai Officer, Mysore District.

Order.

This is an application filed by plaintiff for the grant of a temporary injunction restraining the defendant from interfering with the plaintiff's possession of the lands described in the plaint schedule and from selling by auction the right of cultivation of the same. Mr. K. Ramaswamy on behalf of the District Muzrai Officer, Mysore opposes the application and contends that the suit itsef being not maintainable under the Muzrai Regulation --- No.VII of 1927 this application is not maintainable, but adds that he is prepared to waive the objection of the plaintiff furnishes security for properly accounting for the yield of the lands.

Mr. Sundara Rao on behalf of plaintiff contends that the suit is maintainable under Section 21 of that Regulation and that the contemplated action of the Muzrai Officer is opposed to the terms of that xx very ------ section with entitles the defendant to execute his order only when no suit c of the kind is filed. I have perused the certified copies of the proceedings which culminated in the G.O.dated 29/30th May 1930 which has occasioned the filing of the suit.

The order of the Deputy Commissioner dated 3rd July 1928 makes it -- clear that the inquiry was started under Sections 8 and 13 of the Muzrai -- Regulation No.VI of 1913 and section 8 of the later Regulation VII of 1927. As such it must be held prima facie that the final order of Government was also one passed under the Muzrai Regulation and in this view the suit ---- appears to be prima facie maintainable and the plaintiff would be entitled to the relief sought for, as he has filed the suit within the time prescribed by Section 21 of the Regulation. I do not think that under the circumstances this court can call upon the plaintiff to furnish security.

A temporary injunction will therefore issue restraining the defendant from interfering in any manner with the plaintiff's possession of the suit properties. This order will however be in force during the current official year before the close of which this litigation is likely to terminate. There will however be no order as to costs.

Pronounced in open court.

(Sd.) K. Shankaranarayana Rao,
District Judge.
5-8-1932.

"Copy"

For Muzrai Commissioner.

No. 687/Muzj 188-30-7. 14th Septr.'32.

The Financial

The Muzrai Commissioner in Mysore,

Bangalore.

Subject: Bakshinarasappa's
Charities case.

With reference to your letter No.525/30-31 dated 23rd August 1932 requesting to be informed whether the interlocutory order passed by the District Judge on -- 5th August 1932 in the case - Mr.N.Krishnaswami Rao Vs. District Muzrai Officer, Mysore and others restraining the defendants from interfering in any manner with the Plaintiffs possession of the suit prope may not be taken in appeal &c., I am directed to communicate the following legal opinion on the subject in accordance - with which further action may be taken:-

1. The injunction order granted by the District Judge in this cae has been considered in the law file herewith linked. The Public Prosecutor, has been informed that further execution of the

that further execution of the G.O. of 30th May 1930 has to be stayed in obedience to the prohibitory ord and that no further action in the matter is at prese called for.

2. As observed by the District Judge in his orde of 5-8-1932, the suit is prima facie maintainable un, Section 21 of Regulation VII of 1927. This is the pl tiff's cae and one of the chief points that arise for decision in the case will be as to the maintainabil of the suit, which in its turn involves a consideratio of the validity of the G.O. of 30th May 1930. It is therefore but fair that pending final decision, Court should order status quo being maintained as -- regards possesion of the property in dispute. In this view, it is not advisable to challenge the District Judge's order of 5-8-1932 in appeal.

3. The suit itself is likely to be disposed of by the end of the year and there is no harm in putting off resumption proceedings by a few months more, till the case is decided.

I have the honour to be,
Sir,
Your most obedient servan

G.S. to Financial Secretary

Appendix F G—1]

SUBJECT .....

.....

.....

Section Mucz

File No.

Serial No.

Diary No. of letter replied to .....

No. 487/Mucz.

To

The m.c

Sir subject — Balakrishnamachar's Chamrajpet Case.

With reference to your letter No. S 25 30.31 of 23.8.32 requesting intimation to be informed whether the order passed by the Judge on 378/32 in the Case — Mr. N. Krishnamachar Rao Vs the Municipal officer, Mysore [illegible] may not be taken in appeal &c. Communicate

General and Revenue Secretariat

( )

the *193*

Date of issue 20. 9. 32

N. N. B. Muddukrishnappa

ned by .....

restraining the defendants from interfering either in any manner with the Plaintiff's possession of the suit property

I am directed to ~~State~~ the following legal opinion on the subject which may be given effect to. for [illegible] in accordance with which further action may be taken:

[illegible] sections 5, 6 & 7 of the Mysore

List of enclosures .....

Copied by .....

Examined by .....

Yours etc

12/9/32

By order

[illegible]

WD 71—GBPM—40,600—20-7-31.